

## COVINGTON

BEIJING BRUSSELS DUBAI FRANKFURT JOHANNESBURG  
LONDON LOS ANGELES NEW YORK PALO ALTO  
SAN FRANCISCO SEOUL SHANGHAI WASHINGTON

Arlo Devlin-Brown

Covington & Burling LLP  
The New York Times Building  
620 Eighth Avenue  
New York, NY 10018-1405  
T +1 212 841 1046  
adevlin-brown@cov.com

### Via Electronic Case Filing System

December 15, 2023

Hon. Loretta A. Preska  
United States District Judge  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

### **Re: *United States v. Smart Agunbiade*, 21 Cr. 609 (LAP)**

Dear Judge Preska:

On behalf of Mr. Agunbiade, we write to request an adjournment of Mr. Agunbiade's surrender date, which is currently scheduled for December 19, 2023, to February 10, 2024. On November 22, 2023, the Court adjourned Mr. Agunbiade's surrender date from November 27, 2023 to December 19, 2023, but cautioned that it was disinclined to entertain further adjournment requests absent extraordinary cause and information regarding Mr. Agunbiade's efforts to obtain representation in his pending property action, and whether he has obtained such representation. *See* ECF 409. While we recognize and understand the Court's reluctance, present circumstances support further adjournment, and we are providing herein the additional information requested by the Court.

As we noted in our letters of October 26 and November 21, 2023, Mr. Agunbiade is currently involved in a dispute with his former landlord, which has necessitated several prior adjournments of Mr. Agunbiade's surrender date. The litigation involves Mr. Agunbiade's landlord, who locked Mr. Agunbiade out of a building he was renting and seized many of his personal belongings, including valuables he hopes to sell to support his family and important personal items such as his birth and marriage certificates, which are relevant to his immigration status and future immigration proceedings.

When we last wrote the Court, Mr. Agunbiade had not yet obtained representation in that property dispute, and a show-cause hearing was scheduled for November 30, 2023. Mr. Agunbiade has since obtained representation in the matter, and a trial date has been set for January 25, 2024. A copy of the docket entry setting that trial date is attached hereto as **Exhibit A**. While we have been informed by the presiding court that Mr. Agunbiade would be able to testify at trial remotely, it is not clear that FCI Allenwood would be able or willing to arrange for his remote participation in a state law civil matter. Even if remote testimony is possible, it would not allow the same meaningful participation and consultation with counsel that a live appearance would provide. Of even greater importance, should Mr. Agunbiade prevail at trial and obtain an order requiring the landlord to return his property, he would not be able to obtain access to that property if he is incarcerated, which he urgently needs given the

**COVINGTON**

Hon. Loretta A. Preska  
Page 2

potential immigration consequences Mr. Agunbiade may face after he serves his criminal sentence. Further, the sale of that property is important for Mr. Agunbiade's continued financial support of his family, including his young daughter, during his incarceration.

An adjournment until February 10 will afford Mr. Agunbiade an opportunity to attend to this important matter before he begins service of his sentence.

We have conferred with Pretrial Services and the government. Pretrial Services takes no position, while the government has asked us to report that it opposes the request. In light of Mr. Agunbiade's prior adjournments, we understand the Court's reluctance to entertain this request absent extraordinary cause. Given our showing here, we hope that the Court will consider what we expect to be a final adjournment request. We thank the Court for its patience and attention.

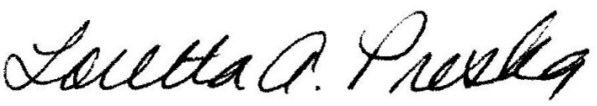
Respectfully submitted,

/s/ Arlo Devlin-Brown  
Arlo Devlin-Brown  
Michael E. Cunniff

Defendant's request to adjourn is granted. Defendant's surrender date is hereby adjourned to February 10, 2024. As the Court stated in its prior order adjourning Defendant's surrender date, (see dkt. no. 409), any further requests to adjourn must be supported by information about the status of Mr. Agunbiade's efforts to obtain the property held by his landlord in the state court show-cause hearing, and the result of such hearing.

**SO ORDERED.**

Dated: December 15, 2023

  
\_\_\_\_\_  
LORETTA A. PRESKA, U.S.D.J.

## **Exhibit A**

**SUPERIOR COURT OF NEW JERSEY - eCOURTS**

The following notice is sent from eCourts

Plaintiff Name: SMART AQUUBAILE  
Defendant Name: 463 E 1 ST AVE REALT Y  
Case Caption: SMART AQUUBAILE VS 463 E 1ST REALTY  
Case Number: UNN-DC-010313-23  
Docket Text: The "Trial" Proceeding for UNN-DC-010313-23 has been scheduled for 01/25/2024.  
Transaction ID: SCP20233724333

**Notice has been electronically mailed to:**

Plaintiff Attorney IBRAHIM AHMED

NOTICES@IBRAHIMALAW.COM  
A.AHMED@IBRAHIMALAW.COM  
F.AHMED@IBRAHIMALAW.COM  
JEFFREY.COHEN21@VERIZON.NET  
JEFFREY.COHEN21@VERIZON.NET  
JEFFREY.COHEN21@VERIZON.NET

Defendant Attorney JEFFREY MARC COHEN

**Notice was not electronically mailed to:**

Login to eCourts to view the case jacket. You will need a valid user ID(Bar ID) to view the submitted documents.

For questions, please contact the Superior Court Special Civil Part in county of venue..

This communication is for notification purposes only.

This email was sent from a notification-only address that cannot accept incoming mail. Please do not reply to this message.